

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Corporate Safe Specialists, Inc.,
an Illinois corporation,

Plaintiff,

v.

FireKing International, LLC,
an Indiana LLC.

Defendant.

Case No. 07 C 2206

Judge St. Eve

JOINT INITIAL STATUS REPORT

Pursuant to this Court's Order dated May 8, 2007 and Federal Rule of Civil Procedure 26(f), counsel for Corporate Safe Specialists, Inc. ("Corporate Safe") and FireKing International, LLC ("FireKing") (collectively the "Parties") conducted a telephone conference on June 20, 2007 to discuss the Joint Initial Status Report requested by this Court. The Parties respectfully respond to the May 8, 2007 Order by submitting the following Joint Initial Status Report:

I. NATURE OF THE CASE

**A. Identify the Attorneys of Record for Each Party,
Including the Lead Trial Attorney.**

Plaintiff Corporate Safe Specialists, Inc.

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Defendant Fire King International, LLC

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B. State the Basis for Federal Jurisdiction

This Court has federal jurisdiction over this action because it involves a federal question under the United States patent laws and because Corporate Safe seeks a declaratory judgment of non-infringement. See 28 U.S.C. § 1331, 1338(a) and 2201(a).

**C. Describe the Nature of the Claims Asserted
in the Complaint and Any Counterclaims**

Plaintiff Corporate Safe's Claims

Plaintiff Corporate Safe is an Illinois corporation with its principal place of business in Posen, Illinois. Defendant FireKing is an Indiana limited liability corporation with its principal place of business in New Albany, Indiana. Both Corporate Safe and FireKing engage in the business of manufacturing and selling safes and safe products.

FireKing is the owner of U.S. Patent No. 7,063,252 (the "252 Patent") entitled "Centralized electronic safe and accounting control system", which issued on June 20, 2006 and was assigned to FireKing. An actual controversy exists between Corporate Safe and FireKing as to whether or not Corporate Safe's conduct constitutes infringement of any claim contained in the '252 Patent.

Corporate Safe has not performed any act – nor is it planning to perform any act – in violation of any rights validly belonging to FireKing. FireKing has asserted that Corporate Safe infringes the ‘252 Patent. Accordingly Corporate Safe is seeking a declaration of non-infringement from this Court.

There is currently a related, pending case in the Northern District of Texas that includes Corporate Safe and FireKing and other parties not named in this case (the “Texas Case”). In the Texas Case, FireKing alleges, among other things, that Corporate Safe has infringed the ‘252 Patent. In the Texas case, Corporate Safe has filed a motion to sever and transfer Fire King’s claims against Corporate Safe to the Northern District of Illinois and consolidate those claims with this lawsuit. The Motion to Sever and Transfer is premised upon serving the convenience of all parties as well as the interest of justice. In short, this Court is the appropriate forum for FireKings’ claims involving Corporate Safe as there is no connection between Texas and either the claims or parties. The Motion to Sever and Transfer in the Texas case has not been fully briefed.

Defendant FireKing’s Claims

On April 16, 2007, Fire King filed a case in the Northern District of Texas, Dallas Division, styled *Fire King International, LLC v. Corporate Safe Specialists, Inc., et al.*, Case No. 3:07-CV-0655-G (the “Texas Case”). In the Texas Case, Fire King alleges, among other things, that Corporate Safe’s products infringe Fire King’s ‘252 Patent and, further, asks that the Court declare that a patent owned by Corporate Safe (U.S. Patent No. 6,885,281] is invalid or unenforceable. Four days later, Corporate Safe filed this action under the Declaratory Judgment Act, asking solely that the Court declare that its products do not infringe the ‘252 Patent. In the Texas Case, Corporate Safe has

filed an Answer which, like its Complaint in this case, denies infringement and contains numerous “affirmative defenses,” including defenses based upon the alleged invalidity or unenforceability of the ‘252 Patent.

Contemporaneously with this Initial Status Report, Fire King has filed with this Court a motion asking the Court to decline to exercise jurisdiction of this case under the Declaratory Judgment Act and to dismiss this case. The basis for the motion is that Fire King filed its patent infringement case in Texas against Corporate Safe *first*, and that Corporate Safe’s wholly defensive declaratory judgment action here – asking solely that the Court declare that Corporate Safe’s products do not infringe the ‘252 Patent – is a blatant forum-shopping effort and all of the issues this action seeks to raise are already before the court in the Texas Case.

Corporate Safe will oppose Fire King’s motion and asserts that this case is properly brought in this forum and should be litigated in this Court.

D. State the Major Legal and Factual Issues in the Case

Corporate Safe’s Statement

The major legal issues in this case will concern the validity, enforceability, and scope of the ‘252 Patent. The Parties will require this Court to construe the claims of the ‘252 Patent.

The major factual issues in this case will concern the fact that Corporate Safe has not performed any act in violation of any rights validly belonging to FireKing.

FireKing’s Statement

The major legal issues are: (1) whether this case should be dismissed because it is a second-filed, defensive action seeking only that the Court declare

non-infringement and all of the issues herein are already before the court in the Texas Case; and (2) if the case is not dismissed, the only legal issues before this Court relate to the question of infringement, not the validity or enforceability of the '252 Patent. The primary factual issues relate to Corporate Safe's infringing activities and damages relating thereto.

E. Describe the Relief Sought By the Plaintiff.

Corporate Safe is seeking a declaration of non-infringement of the '252 Patent.

II. PENDING MOTIONS AND CASE PLAN

A. Identify All Pending Motions

Concurrently with this Joint Initial Status Report, Fire King has filed a motion to dismiss this case.

B. Submit a Proposal for a Discovery Plan, Including the Following Information

a. The Type of Discovery Needed;

At the very least, the Parties will require discovery regarding the prosecution and all other aspects of the '252 Patent, the FireKing products that embody the '252 Patent, and the evidence demonstrating Corporate Safe's infringement/non-infringement of the '252 Patent.

Fire King believes that, since the Complaint seeks only a declaration of non-infringement, there is no need for discovery of facts relating to the invalidity or enforceability of the '252 Patent.

The Parties anticipate that both paper and digital data will be sought in discovery.

The scope of discovery might change if the Corporate Safe Claims in the Texas Case are transferred and consolidated with this lawsuit.

b. A Date for Rule 26(a)(1) Disclosures;

The Parties agree that Rule 26(a)(1) disclosures should be exchanged on July 9, 2007.

c. A Fact Discovery Completion Date;

The Parties agree that fact discovery should be completed by March 3, 2008.

**d. An Expert Discovery Completion Date,
Including Dates for the Delivery of Expert Reports;**

All expert disclosures shall follow the format set forth in Federal Rule of Civil Procedure 26(a)(2). Expert disclosures by either party with an initial burden of proof on an issue at trial shall be completed by April 14, 2008 and their depositions shall be completed by May 26, 2008. Rebuttal expert disclosures, if any, shall be completed by June 30, 2008 and their depositions shall be completed by August 11, 2008. Expert discovery shall be completed by September 15, 2008.

e. A Date for the Filing of Dispositive Motions; and

The Parties agree that the deadline for filing of Dispositive Motions will be October 24, 2008

f. A Date for the Filing of a Final Pre-trial order.

The Parties agree that the deadline for filing of a final pre-trial order will be December 1, 2008.

C. With Respect to Trial, Indicate the Following:

a. Whether a Jury Trial Is Requested;

Neither Party has submitted a jury demand in this matter.

b. The Probable Length of the Trial;

The Parties agree that the probable length of the trial would be twenty five to fifty hours.

c. When the Case Will Be Ready for Trial.

The Parties agree that the earliest possible date they could be ready for trial would be January 2009.

III. CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE

The parties do not consent to have any or all further proceedings conducted before a Magistrate Judge.

IV. STATUS OF SETTLEMENT DISCUSSIONS

A. Indicate Whether Any Settlement Discussions Have Occurred;

The Parties have engaged in settlement discussions including meeting once at the Corporate Safe headquarters and once at the FireKing headquarters.

B. Describe the Status of Any Settlement Discussions; and

While Corporate Safe is willing to entertain further settlement talks, the Parties do not currently have any future settlement meetings scheduled.

C. Whether the Parties Request a Settlement Conference.

The Parties request a settlement conference.

Dated: June 25, 2007

Respectfully Submitted,

s/ James M. Carlson

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COUNSEL FOR DEFENDANT
FIREKING INTERNATIONAL, LLC

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that copies of the foregoing **JOINT INITIAL STATUS REPORT** were served upon the following counsel of record via the means indicated below on June 25, 2007:

Via:	<input type="checkbox"/> ECF	Oscar L. Alcantara
	<input checked="" type="checkbox"/> U.S. First Class Mail	GOLDBERG KOHN
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	<input type="checkbox"/> Federal Express	Suite 3300
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s/ James M. Carlson
